

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

_____)	
ENCOMPASS INSURANCE COMPANY OF)	
MASSACHUSETTS,)	
)	
Plaintiff,)	
)	
v.)	
)	
JOSEPH D. GIAMPA, FREDERICK T.)	Case No. 05-11693 RCL
GIAMPA, ADVANCED SPINE CENTERS, INC.)	
d/b/a FIRST SPINE REHAB, FUTURE)	
MANAGEMENT CORPORATION, FUTURE)	
MANAGEMENT BUSINESS TRUST, EDWARD)	
KENNEDY, BRIAN J. CULLINEY, D.C. and)	
JENNIFER MCCONNELL, D.C.,)	
)	
Defendants.)	
_____)	

**DEFENDANTS BRIAN J. CULLINEY, D.C. AND JENNIFER MCCONNELL,
D.C.'S MOTION TO DISMISS PLAINTIFF'S FIRST AMENDED COMPLAINT**

Defendants Brian J. Culliney, D.C. ("Culliney") and Jennifer McConnell, D.C. ("McConnell") respectfully move that this Honorable Court dismiss as against them all counts of Plaintiff's First Amended Complaint (the "Amended Complaint") as follows:

1. Counts IV (G.L. c. 93A), V (Civil Conspiracy), and VI (Fraud) of the Amended Complaint for failure to satisfy the pleading requirements of Federal Rule of Civil Procedure 12(b)(6) and 9(b); and
2. Count VII (Intentional Interference with Business and Contractual Relationships) of the Amended Complaint for failure to state a claim upon which relief may be granted pursuant to Federal Rules of Civil Procedure 12(b)(6) and 8(a).

In support of their Motion, Culliney and McConnell rely upon their accompanying Memorandum of Law and incorporate by reference any additional relevant arguments advanced by the remaining defendants in their Motion to Dismiss Plaintiff's First Amended Complaint Pursuant to Fed.R.Civ.P. 12(b)(6) and 9(b).

Respectfully submitted,

BRIAN J. CULLINEY, D.C. and
JENNIFER MCCONNELL, D.C.

By their attorney,

/s/ Thomas M. Ciampa

Thomas M. Ciampa (BBO# 566898)
Ciampa & Associates
45 Bromfield Street, Suite 200
Boston, MA 02108
(617) 742-5955

Dated: November 1, 2005

CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of November, 2005, a copy of the foregoing was served by first-class mail, postage prepaid, upon counsel of record for all other parties.

/s/ Thomas M. Ciampa

Thomas M. Ciampa